

AO 91 (Rev. 11/11) Criminal Complaint

FILED**UNITED STATES DISTRICT COURT**

for the

Northern District of California

FEB 20 2020 *as*SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

United States of America)

v.)

DANIEL ANDRES SCALLION-MARTINEZ,)

Case No. **4-20-70200**

Defendant(s)

MAG**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 14, 2020 in the county of Contra Costa in the
Northern District of California, the defendant(s) violated:*Code Section*

18 U.S.C. § 922(g)

Offense Description

Felon in Possession of Ammunition

Maximum Penalties: maximum term of 10 years
imprisonment; \$250,000 fine; 3 year term of supervised
release; \$100 special assessment; forfeiture

This criminal complaint is based on these facts:

Attached Affidavit of Federal Bureau of Investigation Special Agent June Piniewski

☐ Continued on the attached sheet.

Approved As To Form:

Jonathan U. Lee

AUSA JONATHAN U. LEE

June Piniewski
Complainant's signature

June Piniewski, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 2/20/20*Kandis Westmore*
Judge's signatureCity and state: Oakland, California

Hon. Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

District Court
Criminal Case Processing

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, June Piniewski, Special Agent with the Federal Bureau of Investigation, being duly sworn, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed since February 2015. As a Special Agent with the FBI, my duties and responsibilities include conducting criminal investigations for possible violations of federal law, particularly those found in Title 21 and Title 18 of the United States Code. I have had extensive training in law enforcement investigation techniques, including but not limited to 800 hours of training at the FBI Academy at Quantico, Virginia. Prior to joining the FBI, I was a Deputy Sheriff in Hillsborough County, Florida, where I participated in the investigation of various crimes, including violent crimes.

2. I am currently assigned to the Contra Costa County Safe Streets Task Force ("SSTF") of the FBI's San Francisco Field Division in the Concord Resident Agency. During my law enforcement career, particularly as a FBI Special Agent, I have participated in numerous violent crime investigations including bank robbery, commercial armed robbery, prohibited possession of firearms, armored car robbery, adult kidnapping, abductions of children, child pornography, child prostitution, sex trafficking, and received both formal and informal training regarding a variety of investigations. I have participated in physical surveillance operations and have participated in the execution of state and federal arrest warrants and search warrants.

3. I know that it is a violation of Title 18, United States Code, Section 922(g)(1) for any person knowing he had been previously convicted of a crime punishable by imprisonment

for a term exceeding one year to knowingly possess any firearm or ammunition that has been shipped or transported in interstate commerce.

4. I submit this affidavit in support of a Criminal Complaint and Arrest Warrant for **Daniel Andres SCALLION-MARTINEZ (“SCALLION-MARTINEZ”)**. I submit this affidavit for the limited purpose of establishing probable cause to issue a criminal complaint and have not included every fact known to me concerning the investigation described below. The information in this affidavit is based upon my personal knowledge and information as well as information provided by other law enforcement officers involved in the investigation of **SCALLION-MARTINEZ**

5. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that **SCALLION-MARTINEZ** engaged in conduct that constitutes the following federal offense: Felon in Possession of Ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

PROBABLE CAUSE

6. On January 14, 2020 at approximately 8:15 p.m., San Pablo Police Department Officers received a report of a suspicious black sedan with a female in the driver’s seat and a male in the front passenger seat believed to be using narcotics. According to a report written by San Pablo Police Officer Manuel Agredano (“Officer Agredano”), Officers Agredano and Foster responded to the area of 1931 Mesa Buena Avenue in San Pablo, California. This area of San Pablo has a perspective overlooking a part of San Francisco Bay and is a known location for people to park in vehicles and use narcotics and/or alcohol.

7. Upon arrival, Officer Agredano observed a black 2020 Toyota Corolla with a female sitting in the driver’s seat and a male in the front passenger seat. Officer Agredano made

contact with both occupants of the vehicle who were subsequently identified via their California Drivers Licenses. The male was identified as Daniel Andres **SCALLION-MARTINEZ**.

8. While speaking with the occupants, Officer Agredano observed a red plastic plate on **SCALLION-MARTINEZ's** lap with a brown tobacco cigarillo that was split down the middle. The cigarillo had the tobacco contents removed and replaced with what appeared to be crumbled marijuana. Officer Agredano also observed a pile of marijuana that had been crumbled into a pile next to the split cigarillo. Officer Agredano asked the occupants if they were, "rolling a blunt", to which they both replied "yes."

9. Officer Kristina Foster ("Officer Foster") approached the vehicle shortly thereafter. According to her report, when she approached the vehicle she observed a red container with a half-rolled joint in **SCALLION-MARTINEZ's** lap. She observed his knees were pinched together and as she shined her flashlight between his seat and the passenger side door, **SCALLION-MARTINEZ** leaned his body forward and dropped his right hand down towards his right knee. As **SCALLION-MARTINEZ** shifted his body forward and dropped his right hand down towards his knees, Officer Foster recognized the black base plate of a Glock platform firearm.

10. As he leaned back in his seat, Officer Foster saw the extended magazine attached to the Glock platform firearm in between **SCALLION-MARTINEZ's** feet. The slide of the pistol was on the floorboard, the muzzle of the pistol was pointed towards the engine compartment and the grip was facing up towards the roof.

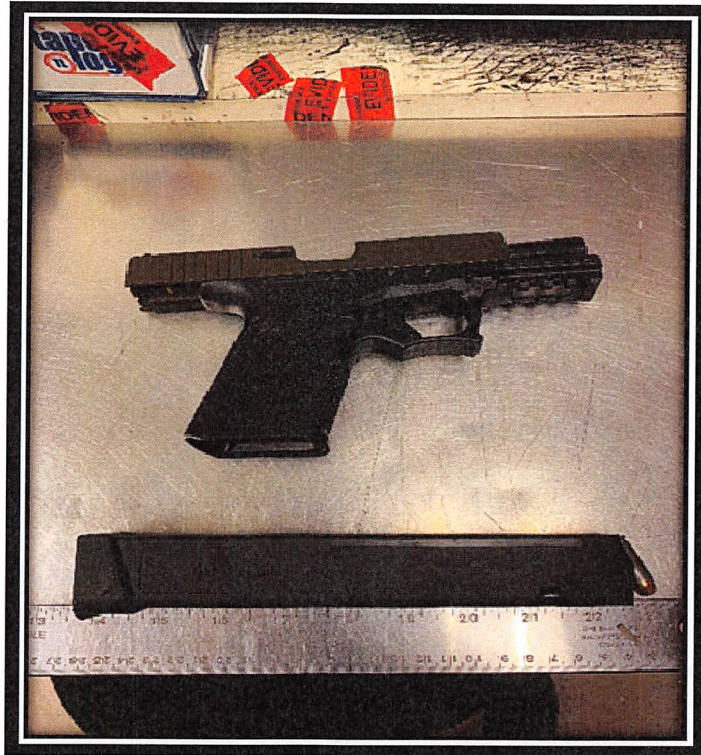
11. **SCALLION-MARTINEZ** was removed from the vehicle and placed in handcuffs. Officer Foster recovered the firearm with attached extended magazine from the floorboard and rendered it safe. There was no serial number or manufacturer's number on the

slide, barrel or frame of the firearm, making it a so-called “ghost” gun. An in-field functions check determined that the firearm, including the firing pin and breach face, was fully functional. Inserted into the magazine well was an extended magazine containing nine (9) rounds of .40 caliber ammunition. The magazine was capable of holding twenty-eight (28) rounds.

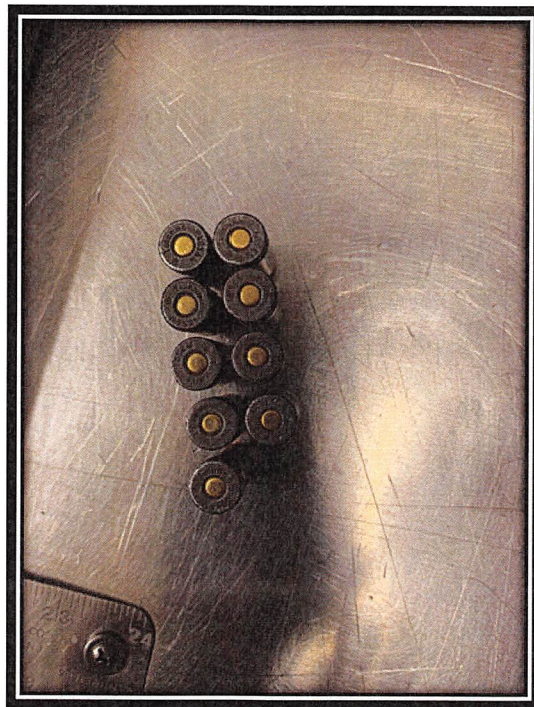
12. **SCALLION-MARTINEZ** was arrested on charges of violating Penal Code § 29800 – Felon in Possession of a Firearm; Penal Code § 30305(a)(1) – Felon in Possession of Ammunition; Penal Code § 29900(a)(1) Possession of a Firearm with Prior of Possessing Firearms; Penal Code § 32310 – Possession of a High Capacity Magazine; Penal Code § 186.22(a) – Participation in Criminal Gang; Penal Code § 25850(c)(1) – Felon in Possession of a Loaded Firearm; and Penal Code § 3056 – Parole Violation.

13. Officer Agredano advised **SCALLION-MARTINEZ** of his *Miranda* rights, and **SCALLION-MARTINEZ** advised of the following: **SCALLION-MARTINEZ** admitted to being in a Sureño gang. He also admitted that he carried the firearm for protection. **SCALLION-MARTINEZ** stated he had the gun for a while, but did not want to say where he got the gun. He also did not want to comment on the extended magazine.

14. This photograph taken by San Pablo Police Department shows the firearm and extended magazine.



15. This photograph shows the 9 live rounds of ammunition found by San Pablo Police Department in the firearm.



16. Officers searched the vehicle and found two glass jars of marijuana, weighing 2.82 pounds, including the jars, and a plastic bag filled with marijuana shake.

SCALLION-MARTINEZ'S PRIOR FELONY CONVICTIONS

17. At the time of his arrest on January 14, 2020, **SCALLION-MARTINEZ**, was on active parole status. The State of California paroled him on or about December 2, 2018, after **SCALLION-MARTINEZ** sentenced to five years in state prison. He received this sentence for two felonies.

18. First, **SCALLION-MARTINEZ** received a conviction for assault with a firearm on a person, in violation of California Penal Code 245(a)(2), for shooting another person in San Rafael, California. The shooting incident was on or about April 4, 2016. According to the police report of the incident, it occurred on Verdi Street in the Canal area of San Rafael, California, an area known for criminal street gang activity. The report describes a statement by **SCALLION-MARTINEZ** admitting that he encountered four males from a rival gang at a wall filled with graffiti. **SCALLION-MARTINEZ** was carrying a loaded .25 caliber handgun for his protection. **SCALLION-MARTINEZ** admitted that he fired his handgun at the four individuals, striking one of them. According to the report, **SCALLION-MARTINEZ** fled the scene of the incident. Three weeks later, investigators detained **SCALLION-MARTINEZ** on April 26, 2016. He possessed a loaded .45 caliber handgun at that time. **SCALLION-MARTINEZ** gave his statement admitting to his role in the shooting incident and he explained to investigators that he and the rival gang took turns painting over the other's graffiti on the wall at the scene of the shooting during the preceding weeks. Investigators also learned through forensic examination of **SCALLION-MARTINEZ**'s phone that he made threats against a person known to him who urged him to turn himself in during the three week period after the

shooting. The date of the conviction was January 26, 2017. **SCALLION-MARTINEZ** received a 4-year sentence for this conviction.

19. Second, **SCALLION-MARTINEZ** received a felony conviction for possession of a sharp object or weapon in 2016 while in custody. He received this felony conviction while awaiting his sentencing for the April 2016 shooting in the Canal area. He received a 1-year sentence on this offense.

20. As a result, **SCALLION-MARTINEZ** is prohibited from possessing a firearm or ammunition due to the two previous felony convictions, for which he was sentenced to a total of five years in prison.

SCALLION-MARTINEZ'S GANG MEMBERSHIP

21. According to the San Rafael Police Department report of the 2016 shooting incident that led to **SCALLION-MARTINEZ**'s conviction and 4-year prison sentence, **SCALLION-MARTINEZ** admitted he was a member of the "Barrio Evil" gang, a subset of the Sureño criminal street gang, based in Los Angeles, and that he became involved with criminal gang activity at age 13, while he lived in Mexico.

22. Based on my training, experience, and research, and after reviewing **SCALLION-MARTINEZ**'s recorded interview after his arrest on January 14, 2020, I noted several tattoos on **SCALLION-MARTINEZ** that commonly indicate gang affiliation. On his right inner wrist he had the letters "SS." I know that the Sureño 13 gang commonly refer to themselves as "Southsiders" and many members of the gang have the tattoo "SS" to indicate their membership. On his inner right elbow was the tattoo "SUR" which I know is commonly short for Sureño (southern). On his back left tricep area was the letter "X" and on his back right tricep area was the number "3." I know that Sureño gang members commonly have tattoos or use in graffiti

“X3” which is the Mayan symbol for the number 13. Sureños use the number 13 to represent the thirteenth letter of the alphabet, the letter M, in order to mark their allegiance to the Mexican Mafia.

23. In addition, when the officers searched the vehicle they found a black and white composition book, with **SCALLION-MARTINEZ**’s name written on the cover.

24. The first page of the book had a gang insignia drawn on it, and the words “SC LA” BXE 33ST EVILTOWN GANG” written on it. From my review of the police incident report of the January 2020 incident, I know that **SCALLION-MARTINEZ** admitted to being a member of the Sureño gang and that he carried a firearm for his protection.

25. Later near the end of the book, written on a page were the words “33ST” and a poem, “I bang Bees even when im not in da hood.” Based on my training and experience, this statement appears to be a statement that **SCALLION-MARTINEZ** intends to represent his gang even when he is not located within the gang’s territory.

INTERSTATE NEXUS

26. On January 22, 2020, San Pablo Police Detective Tyler Hannis sent head stamp photos of the .40 caliber ammunition recovered from **SCALLION-MARTINEZ** via email. I reviewed the photographs and confirmed the .40 caliber ball point ammunition had a “TUL AMMO 40 S&W” stamp on the headstamp. I know from my training and experience and discussions with other law enforcement officers that TUL ammunition is manufactured in Russia. According to the website for this ammunition manufacturer, www.tulammon.ru, the ammunition is manufactured by the Tula Cartridge Works in Tula, Russia. Tula Cartridge Works also has two distributors in the United States, Grasso Holding in Round Rock, Texas and


Sporting Supplies International in Placentia, CA. After its shipment from Russia to one of these distributor locations, this ammunition is then distributed to retailers throughout the United States.

CONCLUSION

27. Based on the above information, I submit that there is probable cause to believe that, on or about January 14, 2020, in the Northern District of California, the Defendant, **Daniel Andres SCALLION-MARTINEZ**, committed the following federal offense: Felon in Possession of Ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

28. I respectfully request that the Court sign the requested criminal complaint and issue the requested arrest warrant for **SCALLION-MARTINEZ**.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.



June Piniewski
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me
this 20th day of February, 2020



THE HONORABLE KANDIS A. WESTMORE
UNITED STATES MAGISTRATE JUDGE